

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

DIANE DEFREITAS,	:	
	:	
Plaintiff	:	
	:	NO. 3:CV-07-807
-vs-	:	
	:	(Judge Kosik)
	:	
SCRANTON SCHOOL DISTRICT,	:	
et al.,	:	
	:	
Defendants	:	

MEMORANDUM

Before the court are the motion to dismiss of defendants Scranton Federation of Teachers Local 1147 and Howard Evans and the motion to dismiss of defendants Scranton School District and David Bieri. For the reasons which follow, the motions to dismiss will be **GRANTED**.

Background

Plaintiff, Diane Defrietas, filed a complaint in the instant action on May 2, 2007. Named as defendants in the complaint are the Scranton School District, David G. Bieri, Principal, Scranton Federation of Teachers and Howard Evans. The basis of plaintiff's complaint is that the defendants "acted to discriminate, single out, create and maintain a hostile work environment and retaliate against the Plaintiff because of her age and gender" in violation of Title VII of the Civil Rights Act of 1964.

On August 29, 2007, the defendants Scranton Federation of Teachers Local 1147 and Howard Evans filed a motion to dismiss and Memorandum of Law in support thereof. On September 17, 2007, the defendant Scranton School District and David G. Bieri filed a motion to dismiss and Memorandum of Law in support thereof. In the Memoranda of Law, defendants argue that the plaintiff failed to exhaust her administrative remedies in that she failed to timely file a charge with the Equal Employment Opportunity Commission (EEOC) or the Pennsylvania Human Relations Commission (PHRC). Defendants also argue that the individual defendants should be dismissed for lack of individual liability under Title VII. Plaintiff has failed to file any opposition to defendants' motion.

Discussion

Initially, we note that Pa.M.D. Local Rule 7.6 provides that any party opposing a motion shall file a responsive brief within fifteen (15) days of service of the movant's brief or the opposing party shall be deemed not to oppose the motion. As we noted above, plaintiff has not filed any opposition to the defendants' motions and she will be deemed not to oppose them. See Stackhouse v. Mazurkiewicz, 951 F.2d 29 (3d Cir. 1991).

Moreover, in reviewing the memoranda submitted by the defendants, defendants argue that plaintiff filed a complaint with the PHRC on May 30, 2006, which was cross-filed with the EEOC. Plaintiff asserts that she was forced to take early retirement on June 10, 2005. In order to bring a timely claim with the EEOC, plaintiff must institute a complaint within three hundred (300)

days after the alleged illegal acts. See Ruehl v. Viacom, Inc., ___ F.3d ___, 2007 WL 2555244 (C.A.3(PA) (September 7, 2007). Plaintiff's administrative action appears to have been brought beyond the time limit. Additionally, defendants point out that as to the individually named defendants, Title VII does not provide for a cause of action. We find merit to the unopposed arguments raised by defendants.

Based on the reasons outlined above, we will grant defendants' motions to dismiss. An appropriate order follows.

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SCRANTON SCHOOL DISTRICT,	:	
et al.,	:	
	:	
Defendants	:	

ORDER

NOW, THEREFORE, this 24th day of October, 2007, IT IS HEREBY ORDERED THAT:

(1) The motion to dismiss of defendants Scranton Federation of Teachers Local 1147 and Howard Evans (Doc. 9) and the motion to dismiss of defendants Scranton School District and David Bieri (Doc. 10) are **GRANTED**;

(2) The Clerk of Court is directed to **CLOSE** this case.

s/Edwin M. Kosik
United States District Judge